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6 IN THE UNITED STATES DISTRICT COURT

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10 IRVIN TERRELL TATUM, No. C 08-3680 WHA (PR)

11 Petitioner,  
12 vs.  
13 ROBERT HOREL, Warden,  
14 Respondent.

15 \_\_\_\_\_ / **ORDER FOR PETITIONER TO  
16 SHOW CAUSE**

17 This is a habeas case filed pro se by a state prisoner. He seeks to challenge a rules  
18 violation conviction which resulted in his being placed in the Security Housing Unit.

19 Habeas is the proper form of action only if success would implicate the fact of or  
20 duration of petitioner's confinement, so it may be that this claim is not properly the subject of a  
21 habeas action. *See Moran v. Sondalle*, 218 F.3d 647, 650-52 (7th Cir. 2000); *Badea v. Cox*, 931  
22 F.2d 573, 574 (9th Cir. 1991) (civil rights action is proper method of challenging conditions of  
23 confinement); *Crawford v. Bell*, 599 F.2d 890, 891-92 & n.1 (9th Cir. 1979) (affirming  
24 dismissal of habeas petition on basis that challenges to terms and conditions of confinement  
must be brought in civil rights complaint).

25 Attachments to the petition show that because state procedural time requirements were  
26 not met, petitioner suffered no loss of good time as a result of the conviction. It thus may be  
27 that the rules violation conviction will not have any effect on the length of petitioner's  
28 incarceration.

1 Petitioner shall show cause within thirty days of the date this order is entered why the  
2 case should not be dismissed as not properly brought in habeas.

3 **IT IS SO ORDERED.**

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5 Dated: August 8, 2008.

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7 WILLIAM ALSUP  
8 UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

IRVIN TERRELL TATUM,

Case Number: CV08-03680 WHA

Plaintiff,

**CERTIFICATE OF SERVICE**

v.

ROBERT HOREL Warden,

Defendant.

/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 11, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Irvin Terrell Tatum E20208  
Pelican Bay State Prison  
P.O. Box 7500  
Crescent City, CA 95531

Dated: August 11, 2008

Richard W. Wiekling, Clerk  
By: Frank Justiliano, Deputy Clerk